

STATE OF ILLINOIS.

DRAFT OF A PROPOSED LAW

RELATING TO THE

CARE AND TREATMENT

OF

THE INSANE.

SEE MEMORANDUM ON TWELFTH PAGE. ~~721~~

SPRINGFIELD, ILL:
H. W. KOKER, PRINTER AND BINDER.
1885.



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A BILL

For an Act to revise the law relating to the commitment and detention
of Lunatics.

SECTION 1. The word insane, in this act, shall be construed to mean any person who, by reason of unsoundness of mind resulting from disease of the brain, is incapable of managing and caring for his own estate, or is dangerous to himself or others if permitted to go at large, or is in such a condition of mind or body as to be a fit subject for care and treatment in a hospital or asylum for the insane: *Provided*, that no person idiotic from birth, or whose mental development was arrested by disease or physical injury occurring prior to the age of puberty, and no person who is afflicted with simple epilepsy, shall be regarded as insane, unless the manifestations of abnormal excitability, violence, or homicidal or suicidal impulses are such as to render his confinement in a hospital or asylum for the insane a proper precaution to prevent him from injuring himself or others.

§ 2. Except as hereinafter provided, from and after the passage of this act, no insane person, or person supposed to be insane, shall, by reason of his insanity, be restrained of his liberty or deprived of the control of his person and estate: *Provided*, that this section shall not be construed to forbid the temporary detention of an alleged lunatic for a reasonable time, not exceeding ten days, pending a judicial investigation of his mental condition.

§ 3. When any person shall be, or be supposed to be, insane, any reputable citizen of the county in which such person resides or is found, may file with the clerk of the county court of the said county a statement in writing, under oath, setting forth that the person named is insane, and unsafe to be at large, or suffering under mental derangement, and that the welfare of himself or others requires his restraint or commitment to some hospital or asylum for the insane; the said statement must be accompanied by the names of the witnesses, (one of whom at least be a physician having personal knowledge of the case), by whom the truth of the allegations therein contained may be substantiated and proved.

§ 4. Immediately upon the filing of the said statement, or as soon thereafter as may be practicable, the judge of the county court shall appoint a time and place for the hearing and determining of the matter, and shall notify the person alleged to be insane of the time and place and nature of the proceeding.

§ 5. Inquests in lunacy shall be by jury or by commission, at the discretion of the court: *Provided*, that such inquest shall always be by jury, when a jury shall be demanded by the person alleged to be insane, or by any person acting in his interest.

§ 6. Where no jury is demanded, and the circumstances of the case are such that there appears to the judge to be no occasion for the impanneling of a jury, or that a trial by jury would for any reason be inexpedient or improper, the judge shall appoint a commission of two qualified physicians, to be chosen by himself, on account of their known competency and integrity, who shall make a personal examination of the patient and file with the clerk of the court a report, in writing, verified by affidavit, of the result of their inquiries, together with their conclusions and recommendations. The commissioners herein provided for shall have power to administer oaths and take sworn testimony.

§ 7. In all cases of inquest by jury, one of the jurors at least must be a qualified physician, and the proceedings shall conform, in all respects, as nearly as may be, to the ordinary practice of the county court; the rights of the person whose mental condition is inquired into shall be the same as those of any defendant in a civil suit.

§ 8. Inquests in lunacy may be in open court, or at the home of the person alleged to be insane, at the discretion of the court; the judge shall have the right to be present and preside at such inquest, and to have the patient brought before him, or to make a personal examination of the patient at his residence, as may be most convenient, humane and proper; but in case of inquest by jury, the presence of the patient shall be indispensable, and no proceedings can be had in his absence. The judge may, at his discretion, require all persons other than the patient, his friends and counsel, to withdraw from the court-room during such inquest.

§ 9. The medical member or members of the jury or commission, as the case may be, shall furnish to the court, in writing, definite answers to as many of the following interrogatories as possible, and certify that the same are correct, to the best of their knowledge and belief:

(1) What is the patient's name? [The Christian name must be given in full, and pains taken to ascertain the correct spelling of the surname.]

(2) What is his legal place of residence, if known?

(3) Where was he born?

(4) What was the birthplace of the patient's father? and of his mother?

(5) What is his age, sex and color? and is he single, married, widowed or divorced?

(6) What has been his usual or latest occupation in life?

(7) Has the patient any children? and if so, how many? What is the age of the youngest child?

(8) Is this his first attack? If not, when did former attacks occur? and what was their duration?

(9) What is supposed to have been the exciting cause or occasion of this attack?

(10) Is there reason to believe that insanity is hereditary in the patient's family? What near or distant relations are or have been insane?

(11) Is he known to have ever had any injury to the head? or to have sustained any severe mental shock? Has he been subjected to any unusual fatigue or strain?

(12) What have been his habits as regards temperance or morality? Has he been addicted to the intemperate use of stimulants or narcotics? or indulged in any venereal excess?

(13) What were the first symptoms of the present attack? and when were they noticed?

(14) What present evidence is there of mental derangement? Has the patient delusions or hallucinations? and if so, what are they? What peculiarities of temper does he manifest? and wherein do they differ from his natural character when sane?

(15) Has the patient shown any disposition to injure himself or others? and if so, in what way? and under what circumstances?

(16) Has he manifested any disposition to destroy clothing, furniture, or property of any kind? [State facts.]

(17) Is there any observed tendency to obscenity or to filthy habits of any sort?

(18) Has it been necessary to resort to any form of restraint or confinement, in his case? and if so, of what character? and how often? and for how long a time?

(19) Is the disease of variable intensity? and are there rational intervals? If so, what is their usual duration? and how often do they occur?

(20) Does the disease appear to be increasing, abating or stationary?

(21) What is the patient's condition in respect of his general health? Is he suffering from any bodily disease?

(22) Has he epilepsy, convulsions or paralysis in any form?

(23) Give the name of his attending physician, and state what medical or other treatment has been pursued for his relief. [Mention particulars, and the effect.]

(24) Is the patient, in your opinion, insane? is it dangerous for him to be at large? would he be likely to be benefited by treatment in a hospital for the insane? is it necessary that he should be removed from his home? [Give reasons for the opinions expressed.]

(25) Give the name and post-office address of the patient's next friend, with whom correspondence may be had, for his benefit.

§ 10. The court may, if not satisfied with the finding of the jury or commission, set the same aside and dismiss the proceedings or order another inquest, and may repeat the same as often as may be necessary.

§ 11. Upon the return of the finding of the jury or commission, the court shall cause the same to be recorded at large, and shall enter the proper order for the disposition of the person alleged to be insane; such order may discharge the patient, with or without conditions, or remand him to the custody of his friends, or commit him to some hospital or asylum for the insane, public or private, within the limits of

this State. But whatever order may be made in the case shall stand and continue to be binding upon all persons whom it may concern, until rescinded, reversed or otherwise legally superseded or set aside.

§ 12. Jurisdiction over the persons of insane persons not charged with crime is vested exclusively in the county courts; but any person aggrieved by any decision or order of a county judge shall have the right to appeal to a higher court, as in other causes.

§ 13. Each county judge shall keep a separate docket of proceedings in inquisitions of lunacy, upon which shall be made such entries as will, together with the papers filed, preserve a perfect record of each case. The original statements and applications for inquest, writs and returns made thereto, and reports of commissions or verdicts of juries, shall be filed with the clerk; and a transcript of the record in each case furnished to the State commissioner in lunacy hereinafter provided for, also a copy of the finding and of the medical certificate, whether the person alleged to be insane be found to be insane or sane.

§ 14. Every person not an officer of the court or of a hospital or asylum for the insane, into whose custody any person adjudged to be insane shall be committed, by order of any court, shall be required to give a bond, to be executed to the people of the State of Illinois, in such sum and with such sureties as the judge may deem sufficient, conditioned for the safe and proper keeping of such patient, until otherwise ordered.

§ 15. It shall not be lawful for any private person or any keeper of any jail or almshouse to seclude or confine for a longer period than two days or mechanically restrain any insane person, unless such seclusion or restraint is authorized by the order of the county judge, entered of record, and a certified copy of the same, authenticated by the seal of the court, delivered to the person having such insane person in charge.

§ 16. All insane persons admitted to any State hospital for the insane shall be maintained and treated, while in the institution, at the expense of the State; but the cost of clothing, transportation, and other incidental expenses not constituting any part of maintenance or treatment, shall be defrayed at their own expense or that of their friends or of the counties from which they were admitted.

§ 17. It shall be the duty of the county judge, at the time of each inquest in lunacy held in his court, to inquire into the pecuniary condition of the person alleged to be insane, and that of the relatives who are bound by law to maintain him. Patients committed to any State hospital for the insane shall be designated as private or county patients. Private patients are such as are of sufficient pecuniary ability to pay for their own clothing and incidental expenses while in the hospital, and all others shall be entered upon the docket as county patients.

§ 18. Upon the entry of an order of commitment of any insane person to a hospital for the insane, the clerk of the county court shall make application to the superintendent of some hospital authorized to receive patients from the said county, for the admission of such insane patient, and shall send with the said application a copy of the finding of the jury or commission, and of the medical certificate provided for

in section nine of this act. Upon receiving any such application, the superintendent shall immediately inform the clerk whether the patient can be received, and if so, at what time; and if not, he shall state the reason why, whereupon the judge may enter any new order in the case which may be requisite and proper.

§ 19. For the conveyance of any patient to a hospital or asylum for the insane, the clerk shall issue a warrant, directed to the sheriff or any suitable person, preferring some relative of the insane person when desired, commanding him to apprehend such insane person and deliver him to the superintendent; when necessary, the clerk may authorize the employment of one or more assistants; but no female patient shall thus be taken to the hospital by any person not her husband, father, brother, or son, without the attendance of some other female of reputable character and mature age. Upon receiving the patient, the superintendent shall indorse upon the warrant his receipt, naming the person or persons from whom the patient was received, and the warrant, so endorsed, shall be returned to the clerk, to be filed with the other papers relating to the case.

§ 20. No private patient shall be received into any State hospital for the insane, unless at or before the time of his admission there shall have been filed with the superintendent a bond, with two good and sufficient sureties, approved by the county judge, executed to the trustees of the hospital, and conditioned that the obligors shall find the patient in suitable and sufficient clothing while he may remain in the institution, and promptly pay for any articles of clothing furnished or other necessary incidental expenses incurred by the institution on account of said patient, and remove him when required by the trustees; and in case of failure upon the part of the trustees to recover upon any bond so approved by the county judge, the county shall become liable to the institution for the amount due from the said obligors.

§ 21. Every patient admitted into any public or private hospital or asylum for the insane shall have all reasonable opportunity and facilities for communication with his friends, and for this purpose shall be permitted to see, at his own pleasure, within the institution, under such restrictions as may be necessary for his own good, his family physician, solicitor or any near relative, and to write and send letters, provided they are rational and contain nothing of an immoral or personally offensive character; and letters written by any patient to any member of the board of trustees, State commissioners of public charities or State commissioner in lunacy, shall be forwarded unopened.

§ 22. No patient shall be placed in restraint or seclusion in any hospital or asylum for the insane in this State except by the order of the physician in charge; and a record shall be made daily of every instance of restraint or seclusion, with the reason therefor, which record shall be always open to the inspection of the State commissioner in lunacy and the State commissioners of public charities; and an abstract showing the amount of restraint and seclusion in each year shall be included in the biennial report of each State hospital for the insane.

§ 23. Authority to discharge patients from either of the State hospitals for the insane is vested in the trustees, but may be delegated, by a formal vote, to the superintendent, under such regulations as they may see fit to adopt. Discharges may be made for either of the following causes, namely: because the person adjudged to be insane is not insane, or because he has recovered from the attack of insanity, or because he is so far improved as to be capable of caring for himself, or because the friends of the patient request his discharge, and in the judgment of the superintendent no evil consequence is likely to follow such discharge, or because there is no prospect of further improvement under treatment, and the room occupied by an incurable and harmless patient is needed for the admission of others who are unsafe to be at large or probably curable. But no dangerous or violent patient, with homicidal or suicidal tendencies, or whose safety or that of others requires that he shall be secluded or mechanically restrained, shall be discharged; and no patient, under any circumstances, shall be discharged until after notice of the intention to discharge him shall have been given to the judge of the county court having jurisdiction in the case, and the judge shall have made some proper order for the disposition of the patient, a certified copy of which, authenticated by the seal of the court, shall have been received by the superintendent: *Provided*, that in case of the failure of said judge to take action in the premises, the State commissioner in lunacy shall have power to make such order as shall seem to him proper, under the circumstances; and if, within thirty days from the date of the notice of discharge herein provided for, such patient be not removed, then the superintendent may return him to the place from whence he came, and the reasonable expenses incurred in his return shall be charged to the proper county.

§ 24. No person shall be discharged from a State hospital without suitable clothing and a sum of money, not exceeding twenty dollars, sufficient to defray his expenses home, which shall be charged to the patient, if a private patient, and if a county patient, to the county, and collected as other debts due the hospital are collected.

§ 25. All persons confined as insane shall be entitled to the benefit of the writ of *habeas corpus*, and the question of insanity shall be decided at the hearing; and if the judge shall decide that the person is insane, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person has been restored to reason.

§ 26. If any patient shall escape from the hospital, it shall be the duty of any sheriff or officer of the peace in any county in which he may be found, to apprehend and detain him, and to report the same to the county judge of said county, who shall return him to the hospital at the expense of the county from whence he was committed.

§ 27. In the event of the sudden and mysterious death of any inmate of any public or private hospital or asylum for the insane, a coroner's inquest shall be held, as provided for by law in other cases. Notice of the death of a patient and of the cause thereof shall, in all cases, be given to the judge of the court having jurisdiction over the said patient.

§ 28. Any person who shall be guilty of any of the acts hereinafter named shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined, not exceeding one thousand dollars, or imprisoned, not exceeding one year, or both, at the discretion of the court in which such conviction is had, namely: any person who shall willfully conspire with any other person unlawfully or improperly to commit to any hospital or asylum for the insane any person who is not insane; any person who shall receive or detain any insane person contrary to the provisions of this act; any person who shall treat any insane person with cruelty or malice or undue severity; and any person who shall in any way violate any provision contained in this act, or neglect to perform any duty herein prescribed.

§ 29. The costs of proceedings in inquests of lunacy shall be assessed and collected as other costs, and the fees paid for jury service, attendance of witnesses and execution of legal process, shall be the same which are allowed by law for similar service in other cases. For services as commissioner to make inquest in lunacy, the sum of five dollars per day shall be allowed and paid to each person so employed.

§ 30. Nothing in this act shall be construed to apply to insane persons, or persons supposed to be insane, who are in custody on a criminal charge, but all such persons shall be and remain under the jurisdiction of the courts having criminal jurisdiction over them.

§ 31. Insane convicts in the State penitentiaries may be committed to a State hospital for the insane, without formal inquest, on the certificate of the penitentiary physician, but the cost of clothing and of incidental expenses while in the hospital shall be paid by the penitentiary from which any insane convict is received.

§ 32. No insane person not a resident of this State shall be admitted into any State hospital for the insane.

§ 33. Insane persons not residents of this State shall not be received or detained in any private institution for the insane in this State, unless committed thereto in accordance with the laws of the State or territory of which they are residents, and of the laws of this State.

§ 34. Persons not insane, but suffering from nervous disorders, who may desire to submit themselves to treatment in any private institution for the insane, may be detained therein for such time as they shall specify by an agreement signed by them at the time of their admission, not exceeding thirty days; and they may, from time to time, renew the authority to detain them for a time, not exceeding thirty days from such renewal; but no agreement shall be deemed to authorize a detention unless acknowledged before the clerk of the county court in and for the county in which such private institution is situated, which agreement, with the certificate of the clerk and seal of the court thereto attached, shall be filed with the State commissioner of lunacy.

§ 35. For the purpose of determining what counties shall be entitled to send patients to each of the State hospitals for the insane, the State commissioners of public charities are authorized and required to fix the boundaries of districts, and assign to each county its equitable quota in each hospital, on the basis of the insane population of each

county, as returned in the tenth census of the United States, reserving a sufficient number of beds for the reception and care of recent cases: *Provided*, that they may assign beds in the Eastern hospital at Kankakee, to counties not included in the district of said hospital.

§ 36. Upon the taking effect of this act, the governor shall nominate, and, by and with the advice and consent of the senate, appoint an experienced and competent physician, who shall be designated as the State commissioner in lunacy, who shall hold his office for five years, and receive an annual salary of four thousand dollars, and other incidental expenses not to exceed one thousand dollars, and who shall, *ex officio*, be a member of the State board of public charities, to whom shall be entrusted, under the general direction of the said board, the administration and enforcement of the laws relating to the insane of this State and their treatment, in or out of hospitals or asylums for the insane.

§ 37. The State commissioners of public charities shall have power, from time to time, with the consent of the chief justice and of the attorney-general, to ordain rules and regulations on the following matters, so far as the same are not inconsistent with any laws of this State:

(1) The licensing of all houses or places in which any person can be lawfully detained as insane or of unsound mind.

(2) Regulations to insure the proper treatment of persons so detained, and to guard against improper or unnecessary detention of such persons.

(3) Regulation of the forms to be observed, relating to the commitment, transfer of custody, and discharge of all lunatics, not in conflict with the provisions of this act.

(4) The visitation of all houses or places in which any persons are detained as insane, and of all persons detained therein.

(5) The withdrawal of licenses for the private care of the insane and the imposition of conditions under which they shall continue.

(6) Reports and information to be furnished by the manager or managers of all houses or places subject to the provisions of this act, and the boards of visitors.

(7) Regulations as to the number of persons that may be detained, and the accommodations to be provided, and food, clothing and fuel to be furnished in any house or building subject to the provisions of this act, the manner of such detention and the restrictions imposed, and the means of communication, by those detained, with relatives, friends and persons outside the houses and places of detention.

§ 38. There shall be appointed boards of visitors of all houses or places licensed under this act, and also of all county almshouses, jails, and other houses or places in which any person of unsound mind is detained; one such board shall be appointed in every county in the State, to be composed of not less than three persons, one or more of whom may be women. The number constituting the board of visitors may be increased at the discretion of the State commissioners of public charities; the members of the boards of visitors shall be appointed by them at the January meeting of each year, and shall continue to act until their successors are appointed, and the board may remove

the visitors and fill vacancies ; at least once a year, members who have failed to act for a year past shall be removed ; no compensation whatever shall be allowed or paid to such visitors. It shall be the duty of any and all persons in charge of each and every almshouse or jail, or of any house or place within the county in which any person of unsound mind is detained, to admit any or all of the visitors appointed for said county into every part of such institution, and to render them every facility within their power to enable them to make, in a thorough manner, their visit, inspection and examination, which are hereby declared to be for a public purpose, and to be made with a view to the public welfare. The boards herein authorized shall make such inspection and report as the State commissioners of public charities may prescribe and require.

§ 39. The State commissioner in lunacy shall keep a record of the names of all persons adjudged to be insane, and of the orders respecting them by the judges of the county courts. He shall make a biennial report to the governor.

§ 40. In all cases where, from evidence laid before the said commissioner, he shall have reason to believe that any person adjudged to be insane is wrongfully deprived of his liberty, or is cruelly, negligently or improperly treated by any person having the custody and care of such person, or that the provision made for his care and keeping is inadequate, it shall be his duty to notify, in writing, the judge of the county court having jurisdiction in the case, who shall, thereupon, investigate the same and make such order as will remedy the evil or right the wrong which upon investigation he may find to have been done; and in case such order is disobeyed or negligently executed, the judge shall have power to enforce the same by committing the person or persons refusing obedience thereto for contempt of court. For the purpose of carrying out the provisions of this section, the said commissioner shall have the right to enter any necessary and proper motion in any county court, and may make such motion in writing, without being personally present in court.

§ 41. An act entitled "An act to revise the law in relation to the commitment and detention of lunatics," approved March 21, 1874, and contained in Chapter 85 of the Revised Statutes, for which the present act is a substitute, and all other acts and parts of acts inconsistent with any of the provisions of this act, are hereby repealed.



MEMORANDUM.

Persons to whom this pamphlet is sent are requested carefully to examine the same, and to send to Mr. FRED. H. WINES, Springfield, Illinois, any suggestions which may occur to them by way of criticism or amendment of the bill as a whole, or any of the sections contained in it.

The bill has been printed in its present form, for the purpose of eliciting any expression of opinion which may tend to improve it, preparatory to introducing it and putting it on its passage, in the General Assembly.